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10/813,211

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EXAMINER

PINHEIRO, JASON PAUL

ART UNIT

PAPER NUMBER

3714

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |                                     |  |
|------------------------------|--------------------------------------|-------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/813,211 | <b>Applicant(s)</b><br>EIKA, TAKURO |  |
|                              | <b>Examiner</b><br>Jason Pinheiro    | <b>Art Unit</b><br>3714             |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2007.
- 2a) ☒ This action is **FINAL**.      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 August 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. After the amendment filed on 08/22/2007, Claims 1-4 and 6-11 were amended.  
Claim 5 was canceled. As a result claims 1-4 and 6-11 are pending.

### ***Claim Objections***

2. Claim 1 is objected to because of the following informalities:

Lines 5-6: "a velocity of the moving object passage numbers" should be changed to --a velocity of the moving object and passage numbers--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 10 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 10 is directed to a judicial exception to 35 U.S.C. 101 (i.e., an abstract idea, natural phenomenon, or law of nature) and is not directed to a practical application of such judicial exception, the claim does not require any physical transformation and the invention as claimed does not produce a useful, concrete, and tangible result.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim recites the limitation "said calculation unit calculates the acceleration of the moving object by obtaining a frictional force given on the moving object the stored reference frictional force at the stored position of the moving object." it is unclear and confusing. For the purposes of examination it will be interpreted as "said calculation unit calculates the acceleration of the moving object by obtaining a frictional force given on the moving object utilizing the stored reference frictional force at the stored position of the moving object."

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-2, and 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Serizawa (EP 0872266 A1) in view of Yoshida (EP 1029569 A2).

Regarding claims 1-2, 4 and 9-11: Serizawa discloses a game apparatus for moving a moving object on a road in a virtual world, wherein line segments

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extend between the edges of the road and each of the line segments is divided into regions (Fig. 19), said game apparatus comprising: an input reception unit which receives an operational input from a player (Col. 12, Lines 33-43); a storage unit which stores a position and a velocity of the moving object (Col. 12, Lines 16-57), Although Serizawa does not specifically disclose storing passage numbers or updating the passage numbers, each of which represents a number of times the moving object passed through each of the regions, it would have been obvious to use the notoriously well known method in the art of recording lap counts, to yield the predictable result of recoding the count of times the vehicle passed through a particular region similar to the way lap counters record the number of times a vehicle passes through the course. Serizawa further discloses an update unit, which updates the stored position and the stored velocity of the moving object in accordance with the calculated influence (as the player manipulates the input device the vehicle's position and velocity are updated) (Col. 12, Lines 44-57). Serizawa further discloses a display unit (Col. 15, Lines 11-12), wherein said display unit displays at least one of the stored position (Col. 18, Lines 20-24) and velocity of the moving object (Col. 19, Line 38-40). However, Serizawa does not disclose a calculation unit which estimates a passage number representing a number of times the moving object passed at the stored position of the moving object from the stored passage numbers, and calculates an influence on the moving object based on the received operational input from the player, the stored position of the moving object, and the estimated

passage number; or that the calculation unit calculates an acceleration of the moving object as the influence on the moving object; or that said storage unit further stores an objective route within the road; said update unit updates the objective route that was stored in accordance with the passage number that was stored of the moving object; and a display unit displays objective route that was stored.

Yoshida discloses estimating the next block a vehicle will travel on based on the block the vehicle is currently on (paragraph [0015]) in order to determine the target acceleration based upon the players input, the current position and estimated future position, although Yoshida does not specifically disclose estimating a passage number, it would have been an obvious modification at the time of the invention to utilize the notoriously well known method of counting laps in a race as discussed above in order to estimate a passage number (i.e., if the vehicle were currently in a region which has been passed through 4 times, it would be obvious that the next region would have been passed through 3 times), one would have been motivated to make this modification in order to yield the predictable result of determining where a vehicle would end up based on it's current position, the players input and it's estimated position. Yoshida further discloses that the calculation unit calculates an acceleration of the moving object as the influence on the moving object (paragraph [0015] – paragraph [0017]). Yoshida further discloses that said storage unit further stores an objective route within the road (paragraph [0011]); said update unit updates the objective route

that was stored in accordance with the passage number that was stored of the moving object (paragraph [0069]); and a display unit displays objective route that was stored (paragraph [0011]).

Therefore it would have been obvious to one skilled in the art at the time the invention was made to integrate the teachings of Yoshida into the teachings of Serizawa in order to create a more enjoyable and user-friendly game for players to play (Yoshida, paragraph ([0007])).

Regarding claims 3 and 6-7: Serizawa further discloses said storage unit stores a reference frictional force at each position on the road (Col. 4, Lines 57-58 – Col. 5, Lines 1-3); and that conditions of the moving object are calculated by obtaining a frictional force given on the moving object the stored reference frictional force at the stored position of the moving object (Col. 26, Lines 43 – Col. 27, Lines 38). Serizawa further discloses that conditions of the moving object are calculated by obtaining a frictional force given on the moving object in accordance with the estimated passage number (i.e., as the laps in the race proceed the frictional force on the vehicle increase, which increases tire grip and thereby increases the acceleration of the vehicle) (Col. 26, Line 43 – Col. 27, Line 38). However Serizawa does not disclose that said calculation unit calculates the acceleration of the moving object.

Yoshida does disclose that said calculation unit calculates the acceleration of the moving object (paragraph [0015] – paragraph [0017]).

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Therefore it would have been obvious to one skilled in the art at the time the invention was made to calculate the acceleration, as taught by Yoshida, as the condition of the moving object calculated by obtaining a frictional force as disclosed by Serizawa, in order to yield the predictable result of creating a more real to life simulation game.

### ***Response to Arguments***

8. Applicant's arguments with respect to claims 1-4 and 6-11 have been considered but are moot in view of the new ground(s) of rejection.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.



Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Pinheiro whose telephone number is 571-270-1350. The examiner can normally be reached on M - F 8:00 AM - 4 PM;.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JP  
10/29/2007

  
ROBERT E. PEZZUTO  
SUPERVISORY PRIMARY EXAMINER